

**IN THE UNITED STATE DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

DAVID DELAITTRE

Plaintiff,

vs.

SOCIAL SECURITY ADMINISTRATION

Defendant.

**NO.**

**COMPLAINT FOR  
INJUNCTIVE RELIEF**

**I. INTRODUCTION**

1.1 This is an action under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, for injunctive and other appropriate relief and seeking the disclosure and release of agency records improperly withheld from plaintiff by defendant Social Security Administration (SSA).

**II. PARTIES**

2.1 Plaintiff, David DeLaittre, is a regional chief administrative law judge with the SSA. He is a resident of King County, Washington.

2.2 Defendant, SSA, is a department of the Executive Branch of the United States government. The SSA is an agency within the meaning of 5 U.S.C. § 552(f).

**III. JURISDICTION & VENUE**

3.1 This court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant 5 U.S.C. 552(a)(4)(B) and 28 U.S.C. § 1331. Venue lies in this district pursuant to 5 U.S.C. 552(a)(4)(B).

Complaint for Injunctive Relief - 1

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Attorneys at Law  
3330 Kitsap Way  
Box 5060, West Hills Station  
Bremerton, WA 98312  
TELEPHONE (360) 377-7691  
FACSIMILE (360) 377-5484

IV. FACTUAL BACKGROUND

- 4.1 On or about May 20, 2014, plaintiff, through his counsel, submitted a written request for records to defendant via U.S. Mail, facsimile, and e-mail. **Ex. A.** Pursuant to 5 U.S.C. 552(a), plaintiff requested all records related to plaintiff's employment as administrative law judge by the SSA.
- 4.2 Defendant acknowledged receipt of plaintiff's request by letter dated May 27, 2014, and instructed plaintiff to leave a voicemail if he had not heard from defendant within 30 days. **Ex. B.**
- 4.3 Defendant provided no further meaningful response and did not provide any requested records. Over the course of the following six months, Plaintiff sent several follow-up voicemails and letters to defendant. **Ex. C.** Plaintiff's inquiries mostly went unanswered. To the extent that defendant returned messages and letters, the communication was not a meaningful response to the request—but rather untrue statements of time estimates for a response. **Ex. D.**
- 4.4 To date, defendant has not provided any records or meaningful response to plaintiff, notwithstanding the FOIA's requirement of an agency response within twenty (20) working days.
- 4.5 Plaintiff exhausted his administrative remedies pursuant to 5 U.S.C. 552(a)(6)(C).
- 4.6 Defendant has wrongfully withheld the requested records from plaintiff.

V. RELIEF REQUESTED

WHEREFORE, Plaintiff prays that this Court:

- 5.1 Enjoin defendant from withholding requested records, and order defendant to disclose the requested records in their entireties and make copies available to plaintiff;
- 5.2 Provide for expeditious proceedings in this action;
- 5.3 Award plaintiff his costs and reasonable attorneys fees incurred in this action pursuant to 5 U.S.C. 552(a)(4)(E); and
- 5.4 Grant such other relief as the Court may deem just and proper.

1 Dated this 22<sup>nd</sup> day of December, 2014.

2  
3 /s/ John C. Andrews

4 JOHN C. ANDREWS, WSBA No. 21387  
5 NINA KUNISH, WSBA# 44775  
6 Bishop, Cunningham, & Andrews, Inc. P.S.  
7 Attorneys for Plaintiff David DeLaittre  
8 3330 Kitsap Way Ste. B  
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11 Email addresses:  
12 jandrews@bcalawyers.com  
13 nkunish@bcalawyers.com  
14 maryann@bcalawyers.com

15 /s/ Jeffery M. Campiche

16 JEFFERY M. CAMPICHE, WSBA No. 7592  
17 PETER G. WOGSLAND, WSBA No. 38431  
18 Campiche Arnold, PLLC  
19 Attorneys for Plaintiff David DeLaittre  
20 Market Place Tower, Suite 830  
21 2025 First Avenue  
22 Seattle, WA 98121  
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26 pwoglsand@campichearnold.com  
27 lharris@campichearnold.com

# **The Brownell Firm, PC**

**Attorneys At Law**

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**1050 17<sup>th</sup> STREET, NW, SUITE 700**  
**WASHINGTON, DC 20036-5503**  
**VOICE: (202) 822-1701 FACSIMILE: (202) 822-1914**  
**www.thebrownellfirm.com**

Bonnie J. Brownell\*  
Christopher R. Landrigan+  
D. Robert DePriest^  
Samantha M. Basso\*

*\*Also Admitted in MD*  
*+Also Admitted in VA*  
*^Also Admitted in NY*

May 20, 2014

Social Security Administration  
Office of Privacy & Disclosure  
617 Altmeyer Building  
6401 Security Boulevard  
Baltimore, MD 21235  
410-966-4304 (fax)  
FOIA.PA.Officers@ssa.gov

**Via U.S. Mail, Fax, and Email**

***Re: FOIA and Privacy Act Request***

**To Whom It May Concern:**

Please accept this correspondence as a request under the Freedom of Information Act, 5 USC § 552, et seq., and Privacy Act, 5 U.S.C. § 552(a), as amended, for copies of all records which relate to the employment of our client, Administrative Law Judge David J. DeLaittre, by the Social Security Administration (SSA) as described further below. Attached please find Judge DeLaittre's confirmation of identity form and designation of representative. The requested records include, but are not limited to:

1. Any "drop file", "suspense file" or "suspense log", "security file", or any similar type of file, kept or maintained by any manager (or their assistant) pertaining to any aspect of the Complainant's employment, conduct and/or performance at the Agency.
2. Any complaint(s) received by the SSA in which Judge DeLaittre is named.
3. Any information or documents regarding allegations against Judge DeLaittre that the Agency has collected and stored in a system of records prior to December 27, 2013.

Please be advised that the term "record" includes, but is not limited to, all e-mail communications to or from any individual within your office, memoranda, inter-agency communications, sound recording, tape recordings, video or film recordings, photographs, notes, note-books, indexes, memoranda, jottings, message slips, letters, telexes, telegrams, facsimile

**EXHIBIT A**

FOIA Request  
May 20, 2014  
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transmissions, statements, policies, manuals or binders, books, handbooks, business records, personnel records, ledgers, notices, warnings, affidavits, declarations under penalty of perjury, unsworn statements, reports, diaries or calendars, regardless of whether they are hand-written, printed, typed, mechanically or electronically recorded or reproduced on any medium capable of conveying an image, such as paper, computer discs or diskettes.

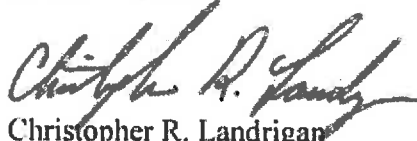
We are willing to pay for processing fees up to, but not exceeding \$250.00. If the anticipated fees for copying the requested records exceed \$250.00, please let us know before you work on this request.

If you deny all or any part of this request, please cite each specific exemption you believe justifies your refusal to release the information and notify us of the appeal procedures available under the law. Please "black-out", rather than "white-out" any deletion. Please respond to the FOIA portion of this request within 20 working days, or June 18, 2014, as required by law. If you are unable to comply with any part of this request, please notify us, in writing, within 24 hours of receipt of this request, of your reason(s), and inform us when we may expect to receive the requested information.

Sincerely,



Bonnie J. Brownell



Christopher R. Landrigan

Enclosures: Designation of Representative  
FOIA Identity Confirmation

**DESIGNATION OF REPRESENTATIVE**

I, David J. DeLaitre, hereby designate Bonnie J. Brownell and Christopher R. Landrigan as my representatives in connection with this FOIA and Privacy Act request to the Social Security Administration. Contact information for their firm is as follows:

The Brownell Law Firm, PC  
1050 17<sup>th</sup> St. NW  
Suite 700  
Washington, DC 20036  
(202) 822-1701  
(202) 822-1914 (fax)

I understand that their firm is authorized to act on my behalf, and I expressly request that all correspondence in this matter be directed to them with a copy to me. I specifically authorize the release of information to my representation that would otherwise be protected by the Privacy Act, 5 U.S.C. § 552a.

5/19/2014  
[Date]

David J. DeLaitre  
[Signature]

**FOIA and Privacy Act Identity Confirmation**

Please accept this correspondence as the verification of my identity in connection the accompanying Freedom of Information Act (FOIA) and Privacy Act request. My full name is David J. DeLaitre. My current address is:

957 17th Avenue East  
Seattle, WA 98112

I was born on May 9, 1944 in Seattle, Washington, and my social security number is 534-60-0811.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above, and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a(i)(3) by a fine of not more than \$5,000.



David J. DeLaitre

5/19/2014

Date



**SOCIAL SECURITY**

**Refer to:  
S9H: AM2621**

**05/27/2014**

**Bonnie Brownell  
The Brownell Firm, P.C.  
1050 17Th Street, N.W.  
Suite 700  
Washington, DC 20036-5503**

**Dear Bonnie Brownell:**

**We have received your request for records and will process it as soon as possible. If you need to contact us about your request, please be sure to refer to the above control number. If you have not heard from us in 30 days and wish to check on the status of your request, you may call 410-965-1727. Leave a message and your telephone number. Someone will return your call as soon as possible.**

**Sincerely,**

**Dawn S. Wiggins  
Freedom of Information Officer**

**EXHIBIT B**



# The Brownell Firm, PC

Attorneys At Law

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D. Robert DePriest^  
Samantha M. Basso\*

\*Also Admitted in MD  
+Also Admitted in VA  
^Also Admitted in NY

July 15, 2014

Ms. Dawn S. Wiggins  
Freedom of Information Officer  
Social Security Administration  
Office of Privacy & Disclosure  
617 Altmeyer Building  
6401 Security Boulevard  
Baltimore, MD 21235  
410-966-4304 (fax)  
[FOIA.PA.Officers@ssa.gov](mailto:FOIA.PA.Officers@ssa.gov)

**Via U.S. Mail, Fax, and Email**

Re: FOIA and Privacy Act Control No. S9H: AM2621

Dear Ms. Wiggins:

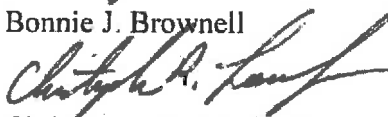
We are writing with respect to our Freedom of Information Act (FOIA) request of May 20, 2014, assigned control number S9H: AM2621. We submitted this request via email, fax, and U.S. Mail, and the Agency acknowledged receipt of this request by letter dated May 27, 2014. As of the date of this letter, we have not received a response to our request or any notification from the Agency that there would be a delay. As instructed in your May 27, 2014 letter, we have also left a voicemail at the telephone number you provided but did not receive a reply.

The Agency has an obligation to respond to our request in a timely manner and has not done so to date. Please respond within 24 hours from receipt of this letter as to the status of responding to our request. Thank you for your attention to this matter.

Sincerely,



Bonnie J. Brownell



Christopher R. Landrigan

EXHIBIT C

# The Brownell Firm, PC

www.thebrownellfirm.com  
Attorneys At Law

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Samantha M. Basso\*

\*Also Admitted in MD  
+Also Admitted in VA  
^Also Admitted in NY

August 6, 2014

Ms. Dawn S. Wiggins  
Freedom of Information Officer  
Social Security Administration  
Office of Privacy & Disclosure  
617 Altmeyer Building  
6401 Security Boulevard  
Baltimore, MD 21235  
410-966-4304 (fax)  
FOIA.PA.Officers@ssa.gov

**Via U.S. Mail, Fax, and Email**

*Re: FOIA and Privacy Act Control No. S9H: AM2621*

Dear Ms. Wiggins:

We are writing again with respect to our Freedom of Information Act (FOIA) request of May 20, 2014, assigned control number S9H: AM2621, which we submitted via email, fax, and U.S. Mail. The Agency acknowledged receipt of this request, which is attached for your convenience, by letter dated May 27, 2014.

As of the date of this letter, we still have not received a response to our request or any notification from the Agency that there would be a delay in spite of our multiple attempts to contact the Agency. As instructed in your May 27, 2014 letter, we have left two voicemails at the telephone number you provided, and additionally sent you a follow up letter dated July 15, 2014, but have not received the courtesy of any reply. Furthermore, we recently received a letter dated July 25, 2014 identical to your letter of May 27, 2014 that provides a different reference number (S9H: AM4909). We believe this letter may have been sent in error in response to our letter of July 15, 2014, and would appreciate clarification.

The Agency is required by law to respond to our request in a timely manner. Please provide us with a response to this letter and an update as to the status of our request by August 13, 2014. If

EXHIBIT C

Ms. Wiggins  
August 6, 2014  
Page 2

we do not hear from you by this date, we will escalate this matter in an appeal to the Commissioner of Social Security.

Thank you for your attention to this matter.

Sincerely,

*Bonnie J. Brownell (smb)*

Bonnie J. Brownell

*Christopher R. Landrigan (smb)*

Christopher R. Landrigan

**From:** Lu, David [<mailto:David.Lu@ssa.gov>]  
**Sent:** Thursday, August 07, 2014 10:53 AM  
**To:** Jacqueline Pounders  
**Subject:** FOIA request AM 2621

Good morning Ms. Pounders,

I was forwarded your email regarding your FOIA request for documents pertaining to ALJ David DeLaittre. I apologize for the delay in getting back to you. I was recently assigned this request and am going through the case folder for it now. I will most likely get this into management review tomorrow, so hopefully I will be able to provide a response in the upcoming weeks.

In regards to AM4909, I searched our system and found that this was in regards to an appeal your firm sent in on July 17, 2014 for statistics regarding SSA ALJ requests for outside employment (case number for original request was AM1244). We are also processing your appeal now.

I am working out of the office today, so please contact me via email if you have any immediate questions. I will be in the office tomorrow and can be reached at 410-965-3761.

Thanks,

David Lu  
Office of Privacy and Disclosure  
Office of the General Counsel  
Social Security Administration  
410-965-3761